

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Kofi Gyekye,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:09cv753
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Lebanon Correctional,	:	
	:	
Respondent(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on July 28, 2010 a Report and Recommendation (Doc. 18). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 20).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Accordingly, petitioner's motion to stay the case (Doc. 16) is **DENIED**.

Respondent's motion to dismiss (Doc. 11) is **GRANTED**, and petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** with prejudice.

A certificate of appealability will not issue with respect to the five grounds for relief alleged in the petition, which this Court has concluded are waived and procedurally barred from review. Under the applicable two-part test enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-

85 (2000), “jurists of reason” would not find it debatable whether this Court is correct in its procedural ruling or whether petitioner has stated a viable constitutional claim in any of the procedurally barred grounds for relief.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith,” and therefore, **DENY** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F. 3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court